MONTANA LEGISLATIVE HISTORY

Chapter 311 19 99

Bill H _____ S 258 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	3-12	✓ C	Hearing Date(s)	~~1-26~~	✓ C
	3-25	✓ C		2-1	✓ C
		C		2-4	✓ C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

4/12 Chapter Number Assigned
Chapter Number 288
Effective Date: 10/01/1999 - All Sections

SB 258 Introduced by Grimes, et al. *LC1161 Drafter: Lane*

Revise the Laws Related to Victims of Partner and Family Member Assault, Victims of Sexual Assault, and Victims of Stalking;...

1/21	Introduced and 1st Reading		
1/21	Referred to Judiciary		
1/21	Fiscal Note Requested		
1/25	Fiscal Note Received		
1/28	Fiscal Note Printed		
2/01	Hearing		
2/05	Committee Executive Action--Bill Passed as Amended	9	0
2/05	Committee Report--Bill Passed as Amended		
2/08	2nd Reading Passed	48	0
2/09	3rd Reading Passed	49	0
	Transmitted to House		
2/16	Referred to Judiciary		
3/12	Hearing		
3/25	Committee Executive Action--Bill Concurred as Amended	18	2
3/26	Committee Report--Bill Concurred as Amended		
3/30	2nd Reading Concurred	91	6
3/31	3rd Reading Concurred	90	10
	Returned to Senate with Amendments		
4/07	2nd Reading House Amendments Concurred	49	0
4/08	3rd Reading Passed as Amended by House	50	0
4/08	Sent to Enrolling		
4/10	Returned from Enrolling		
4/12	Signed by President		
4/13	Signed by Speaker		
4/13	Transmitted to Governor		
4/15	Signed by Governor		
4/16	Chapter Number Assigned Chapter Number 311 Effective Date: 4/15/1999 - All Sections		

SB 259 Introduced by Grimes *LC1567 Drafter: Lane*

Submit to the Electorate the Elimination of the Termination Date for the Civil Filing Fees for Filing of Petitions for Dissolution of Marriage and Separation for Funding of the Partner and Family Member Assault Intervention and Treatment Fund Account;...

1/11	Fiscal Note Needed		
1/21	Introduced and 1st Reading		
1/21	Referred to Judiciary		
1/26	Hearing		
1/26	Committee Executive Action--Bill Passed	6	0
1/26	Committee Report--Bill Passed		
1/27	2nd Reading Passed	49	1
1/28	3rd Reading Passed	48	1
	Transmitted to House		

Senate BILL NO. 258

INTRODUCED BY [illegible] Jenkins-Hallyer - Oak Hayne
(Primary Sponsor)
Bartlett

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO VICTIMS OF PARTNER AND FAMILY MEMBER ASSAULT, VICTIMS OF SEXUAL ASSAULT, AND VICTIMS OF STALKING; CLARIFYING TEMPORARY ORDER OF PROTECTION LAWS RELATING TO CONTINUANCES AND SERVICE ON RESPONDENTS; ELIMINATING THE TERMINATION DATE ON CIVIL FILING FEES ON DIVORCE AND SEPARATION FILINGS THAT FUND THE PARTNER AND FAMILY MEMBER ASSAULT INTERVENTION AND TREATMENT FUND ACCOUNT; AMENDING SECTIONS 40-15-202 AND 40-15-301, MCA; REPEALING SECTION 14, CHAPTER 484, LAWS OF 1997; PROVIDING A CONTINGENT VOIDNESS PROVISION; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-15-202, MCA, is amended to read:

"**40-15-202. Order of protection -- hearing -- evidence.** (1) A hearing must be conducted within 20 days from the date that the ~~court issues~~ respondent is served with a temporary order of protection. The hearing date may be continued by either party for good cause or by the court. If the hearing date is continued, the temporary order of protection must remain in effect until the court conducts a hearing. At the hearing, the court shall determine whether good cause exists for the temporary order of protection to be continued, amended, or made permanent.

(2) The respondent may request an emergency hearing before the end of the 20-day period by filing an affidavit that demonstrates that the respondent has an urgent need for the emergency hearing. An emergency hearing must be set within 3 working days of the filing of the affidavit.

(3) The order of protection may not be made mutually effective by the court. The respondent may obtain an order of protection from the petitioner only by filing an application for an order of protection and following the procedure described in this chapter.

(4) (a) Except as provided in subsection (4)(b), evidence concerning a victim's sexual conduct is not admissible in a hearing under this section.

(b) Evidence of a victim's past sexual conduct with the offender or evidence of specific instances

of the victim's sexual activity to show the origin of semen, pregnancy, or disease may be admitted in a hearing under this section only if that sexual conduct is at issue in the hearing.

(5) If a respondent proposes to offer evidence subject to subsection (4)(b), the trial judge shall order a separate hearing to determine whether the proposed evidence is admissible under subsection (4)(b)."

Section 2. Section 40-15-301, MCA, is amended to read:

"**40-15-301. Jurisdiction and venue.** (1) District courts, justices' courts, municipal courts, and city courts have concurrent jurisdiction to hear and issue orders under 40-15-201.

(2) When a ~~divorce~~ dissolution of marriage or ~~custody~~ parenting action involving the parties is pending in district court, a person may file a petition for an order of protection in a justice's, municipal, or city court only if the district court judge assigned to that case is unavailable or if the petitioner, to escape further abuse, left the county where the abuse occurred. The petitioner shall provide a copy of relevant district court documents to the justice's, municipal, or city court, along with the petition. The justice of the peace, municipal court judge, or city court judge shall immediately certify the pleadings to the original district court after signing an order of protection under this subsection. The district court shall conduct the hearing unless both parties and both courts agree that the hearing may be conducted in the court of limited jurisdiction. If the district court is unable to conduct a hearing within 20 days of receipt of the certified pleadings, it may conduct a hearing within 45 days of the receipt of the pleadings, unless the hearing is continued by either party for good cause or by the court. If the hearing is continued, the order of protection must remain in effect until the court conducts the hearing.

(3) If one of the parties to an order of protection files for dissolution of marriage after the order of protection is filed but before the hearing is conducted, the hearing must be conducted in the court in which the order of protection was filed. Either party may appeal or remove the matter to the district court prior to or after the hearing. If the district court is unable to conduct a hearing within 20 days of receipt of the certified pleadings, the district court may conduct a hearing within 45 days of receipt of the pleadings. The hearing may be continued by either party for good cause or by the court. If the hearing is continued, the order of protection must remain in effect until the court conducts the hearing.

~~(3)~~(4) An action brought under this chapter may be filed in the county where the petitioner currently or temporarily resides, the county where the respondent resides, or the county where the abuse

occurred. There is no minimum length of residency required to file a petition under this chapter.

~~(4)~~(5) The right to petition for relief may not be denied because the petitioner has vacated the residence or household to avoid abuse.

~~(5)~~(6) An order of protection issued under this section is effective throughout the state. Courts and law enforcement officials shall give full faith and credit to all orders of protection issued within the state.

~~(6)~~(7) A certified copy of an order of protection from another state, along with proof of service, may be filed in a Montana court with jurisdiction over orders of protection in the county where the petitioner resides. If properly filed in Montana, an order of protection issued in another state must be enforced in the same manner as an order of protection issued in Montana."

NEW SECTION. **Section 3. Repealer.** Section 14, Chapter 484, Laws of 1997 is repealed.

NEW SECTION. **Section 4. Coordination instruction.** If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution is declared invalid or if that portion requiring submission of the extension of an expiring tax to the electorate is declared invalid, then [LC 1567] is void.

NEW SECTION. **Section 5. Contingent voidness.** If the additional $30 filing fee on petitions for dissolution of marriage and legal separation for funding the partner and family member assault intervention and treatment fund account is submitted to the electorate in conformance with Constitutional Initiative No. 75, then [section 3 of this act] is void.

NEW SECTION. **Section 6. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective on the occurrence of the contingency provided for in [section 4].

- END -

FISCAL NOTE

Bill #: SB0258 **Title: Revise domestic abuse laws.**

Primary Sponsor: **Duane Grimes** **Status:** **As introduced**

Dave Lewis 1-25-99

Sponsor signature Date Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
State Special Revenue	$148,123	$148,123
Revenue:		
State Special Revenue	$148,123	$148,123
Net Impact on General Fund Balance:	**$0**	**$0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The FY 1998 collections from this state special revenue source were $148,123. Revenue for FY 2000 and FY 2001 will be equivalent to that of FY 1998.
2. The termination provision of Section 14, Chapter 484, Laws of 1997 for the $30 civil filing fees on divorce and separation filings that fund the partner and family member assault interventions and treatment is repealed. This will result in $148,123 additional annual state special revenue.
3. The requirements of Constitutional Initiative No. 75 are met (SB 259 addresses the CI 75 issue for submitting this to the electorate, if required).
4. The additional $30 in the fee for dissolution of marriage or petition for legal separation would be deposited in a special revenue fund account and allocated to the Department of Public Health and Human Services (DPHHS) for intervention and treatment services to victims of partner or family member assault.
5. DPHHS will distribute the money in the special revenue account to agencies that provide direct services to victims of partner or family member assault.

SB 258

SB 251 SPONSOR: Halligan, Mike SHORT TITLE: Clarify assessment of chemical dependency prior to sentencing of DUI
REFERRED ON: 01/21/1999 HEARD ON: 02/11/1999 (S) Discussed in Committee ON: 02/12/1999
EXECUTIVE ACTION: 02/15/1999 Bill Passed as Amended -- VOTE: 8 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 257 SPONSOR: Grimes, Duane SHORT TITLE: Revise sex offender laws
REFERRED ON: 01/21/1999 HEARD ON: 01/28/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed -- VOTE: 8 - 0
FINAL DISPOSITION 04/12/1999 Chapter Number Assigned

SB 258 SPONSOR: Grimes, Duane SHORT TITLE: Revise domestic abuse laws
REFERRED ON: 01/21/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/05/1999 Bill Passed as Amended -- VOTE: 9 - 0
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

SB 259 SPONSOR: Grimes, Duane SHORT TITLE: Submit continued funding for domestic abuse programs to electors
REFERRED ON: 01/21/1999 HEARD ON: 01/26/1999
EXECUTIVE ACTION: 01/26/1999 Bill Passed -- VOTE: 6 - 0
FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee

SB 273 SPONSOR: Jabs, Reiny SHORT TITLE: Create 22nd judicial district & add judge to 11th & 20th districts
REFERRED ON: 01/23/1999 HEARD ON: 02/03/1999
EXECUTIVE ACTION: 02/05/1999 Bill Passed -- VOTE: 9 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 303 SPONSOR: Thomas, Fred SHORT TITLE: Place hospital costs ahead of attorney fees in work comp cases
REFERRED ON: 01/27/1999 HEARD ON: 02/03/1999
REFERRED ON: 02/16/1999
EXECUTIVE ACTION: 02/12/1999 Bill Passed as Amended -- VOTE: 8 - 1
TABLED ON: 02/17/1999
FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal

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MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 1, 1999 at 10:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Ric Holden (R)

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 243, SB 258, 1/30/1999
Executive Action: SB 232, SB 236, SB 257

HEARING ON SB 243

Sponsor: **SEN. FRED THOMAS, SD 31, Stevensville**

Proponents: **John Larson, District Judge from Missoula**

Opponents: **None**

HEARING ON SB 258

Sponsor: SEN. DUANE GRIMES, SD 20, Clancy

Proponents: Judy Wang, Assistant Missoula City Attorney
Tootie Welker, Sanders County Coalition for Families
Kathy Sewell, Montana Coalition Against Domestic and Sexual Violence
Rebecca Moog, Montana Women's Lobby

Opponents: None

Opening Statement by Sponsor:

SEN. DUANE GRIMES, SD 20, Clancy, introduced SB 258. He conveyed that the domestic abuse shelters around the state provide a safety net for families. Oftentimes mothers with their children in hand seek refuge in domestic abuse shelters. The other part of this effort is legislation that provides that sexual gratification does not need to be present in order to charge someone with a crime. It is unspeakably sad that this legislation needs to be considered. Approximately 8,000 families have been helped by domestic abuse shelters. It is important to make sure that temporary orders of protection do not lapse. In these circumstances when one is faced with an extremely hostile and dangerous situation, the temporary orders should not lapse because of the system because this leaves people hanging out on a limb.

{Tape : 1; Side : A; Approx. Time Counter : 10.32}

Proponents' Testimony:

Judy Wang, Assistant Missoula City Attorney, reported that one of the laws that the legislature has enacted to help victims of domestic violence is to give victims an order of protection so that they can have an order from a judge that states that the offender must stay away. If the offender cannot have contact with the victim, less crimes will occur.

In 1997, the Montana Supreme Court ruled in State v. Asmundson, ____ Mont. ____, 940 P.2d 104 (1997), that all orders of protection must go to hearing within 20 days. The effect of the ruling is if a victim receives an order of protection seeking refuge from a violent offender, the matter must go to hearing. If the hearing cannot be conducted within 20 days, the order disappears. This legislation asks that the law be amended so that any party, for good cause, can have an order of protection

hearing postponed. She had a victim who was very pregnant in a high-risk pregnancy who asked the court for an order of protection against her partner. Because she was at risk of losing her child if she went through a risky hearing, the hearing was postponed. Meanwhile she fled to a shelter and he contacted her at the shelter. The contact was after the 20 days had passed but before the matter went to hearing. The matter was heard and the order was continued. The offender was charged criminally with violating the order of protection. This went to trial and the jurors decided he was guilty but because the hearing had been postponed because she was more concerned about her baby's safety than her own, the charges were dismissed because a hearing hadn't been conducted within 20 days of when the order was originally issued.

This legislation clarifies what court will conduct an order of protection hearing. Courts of limited jurisdiction and district courts both have jurisdiction over these orders.

She further commented that the amendment is at the very beginning of the bill. They are asking that the language be restored to its original statutory language. Written testimony of Judy Wang - **EXHIBIT(3)**.

Tootie Welker, Sanders County Coalition for Families, presented her written testimony, **EXHIBIT(4)**.

Kathy Sewell, Montana Coalition Against Domestic and Sexual Violence, conveyed that last year there were over 10,000 calls to their hotlines and they served between 6,000 and 8,000 women directly. The risk of death for battered women increases a hundred fold when they separate from their husband. One of the reasons that battered women stay in a bad relationship is that they know that they are in fear of their lives if they actually leave. An order for protection is very important.

Rebecca Moog, Montana Women's Lobby, rose in support of SB 258.

Additional exhibits: Letter - Great Falls Municipal Court, **EXHIBIT(5)** and Letter - Warren L. Little, **EXHIBIT(6)**.

Opponents' Testimony: None

{Tape : 1; Side : A; Approx. Time Counter : 10.41}

Questions from Committee Members and Responses:

SEN. HALLIGAN referred to the language on page 2, line 22, and remarked that a parenting action could be filed in a situation where the parents are not married. **Ms. Wang** remarked that this

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 173 - 550}

Closing by Sponsor:

Senator Jabs made closing statements.
{Tape : 2; Side : A; Approx. Time Counter : 0 - 24}

HEARING ON SB 257 AND SB 258

Sponsor:

Senator Grimes presented SB 257 and SB 258.
{Tape : 2; Side : A; Approx. Time Counter : 24 - 117}

Proponents:

Judy Wang, Missoula City Attorney
{Tape : 2; Side : A; Approx. Time Counter : 117 - 271}
EXHIBIT(9)
EXHIBIT(10)

Mike McGrath, Lewis & Clark Co. Attorney
{Tape : 2; Side : A; Approx. Time Counter : 271 - 343}
Dennis Paxinos, Yellowstone Co. Attorney
{Tape : 2; Side : A; Approx. Time Counter : 343 - 381}
Kristine LaCroix, Missoula County Attorney
{Tape : 2; Side : A; Approx. Time Counter : 381 - 550}
Richard Ochner, Missoula City Police
{Tape : 2; Side : B; Approx. Time Counter : 0 - 59}
Tootie Welker, Sanders County Coalition for Families
{Tape : 2; Side : B; Approx. Time Counter : 59 - 106}
EXHIBIT(11)

John Connor, Attorneys General Office
{Tape : 2; Side : B; Approx. Time Counter : 106 - 138}
George Corn, Ravalli County Attorney
{Tape : 2; Side : B; Approx. Time Counter : 138 - 185}
Deb Vorhees, Montana Coalition Against Domestic Violence
{Tape : 2; Side : B; Approx. Time Counter : 185 - 199}
Rebecca Moog, Montana Women's Lobby
{Tape : 2; Side : B; Approx. Time Counter : 199 - 212}

Opponents:

None
Informational Testimony:

None
Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 212 - 453}

Closing by Sponsor:

Senator Grimes made closing statements.
{Tape : 2; Side : B; Approx. Time Counter : 453 - 550}
{Tape : 3; Side : A; Approx. Time Counter : 0 - 120}

HEARING ON SB 236

Sponsor:

Senator Doherty presented SB 236.
{Tape : 3; Side : A; Approx. Time Counter : 120 - 140}

Proponents:

John Connor, Attorneys General Office
{Tape : 3; Side : A; Approx. Time Counter : 140 - 244}
George Corn, Ravalli County Attorney
{Tape : 3; Side : A; Approx. Time Counter : 244 - 550}
{Tape : 3; Side : B; Approx. Time Counter : 0 - 20}

Opponents:

None
Informational Testimony:

Scott Creichton, ACLU
{Tape : 3; Side : B; Approx. Time Counter : 20 - 57}
Questions from Committee Members and Responses:

{Tape : 3; Side : B; Approx. Time Counter : 57 - 214}

Closing by Sponsor:

Senator Doherty made closing statements.
{Tape : 3; Side : B; Approx. Time Counter : 214 - 278}

Motion/Vote: REP. YOUNKIN moved that SB 257 BE CONCURRED IN. Motion carried unanimously.
{Tape : 2; Side : B; Approx. Time Counter : 133 - 550}
{Tape : 3; Side : A; Approx. Time Counter : 0 - 113}

EXECUTIVE ACTION ON SB 258

Motion: REP. YOUNKIN moved that SB 258 BE CONCURRED IN.
Motion/Vote: REP. WYATT moved that SB 258 BE AMENDED. Motion carried 19-1 with Jore voting no.
Motion: REP. YOUNKIN moved that SB 258 BE CONCURRED IN AS AMENDED.
Motion: REP. SHOCKLEY moved that SB 258 BE AMENDED.
Motion/Vote: REP. SHOCKLEY moved SB 258-OFFERS SUBSTITUTE AMENDMENT. Motion carried unanimously.
Motion: REP. GALLUS moved that SB 258 BE CONCURRED IN AS AMENDED.
Motion/Vote: REP. NOENNIG moved that SB 258 BE AMENDED. Motion carried unanimously.
Motion/Vote: REP. ANDERSON moved that SB 258 BE CONCURRED IN AS AMENDED. Motion carried 18-2 with Jore and Molnar voting no.
{Tape : 3; Side : A; Approx. Time Counter : 113 - 414}

EXECUTIVE ACTION ON SB 372

Motion: REP. YOUNKIN moved that SB 372 BE CONCURRED IN.
Motion/Vote: REP. ANDERSON moved that SB 372 BE AMENDED. Motion carried unanimously.

EXHIBIT(6)

Motion: REP. AHNER moved that SB 372 BE CONCURRED IN AS AMENDED.
Motion/Vote: REP. ANDERSON moved that SB 372 BE AMENDED. Motion failed 8-12 with P. Clark, Eggers, Facey, Gallus, Gutsche, Hurdle, Kitzenberg, Noennig, Shockley, Soft, Williams, and Wyatt voting no.
Motion/Vote: REP. AHNER moved that SB 372 BE CONCURRED IN AS AMENDED. Motion carried 14-6 with R. Clark, Curtiss, Jore, McGee, Molnar, and Soft voting no.
{Tape : 3; Side : A; Approx. Time Counter : 414 - 550}
{Tape : 3; Side : B; Approx. Time Counter : 0 - 193}

EXECUTIVE ACTION ON SB 472

Motion: REP. AHNER moved that SB 472 BE CONCURRED IN.

language was at the request of a judge from a limited jurisdiction court. Most of the time in an order of protection, a parenting plan isn't at issue. There are provisions for restrictions with contact with children. A parenting plan, where it applied and if contact with children was an issue, would be a good amendment to the bill.

SEN. HALLIGAN explained that he had a case where the parents are not married and there is abuse involved. He agreed to work on amending the language.

SEN. DOHERTY referred to page 2, line 24, where either party would be able to appeal or remove the matter to the district court prior to or after the hearing. He added that recent legislation dealt with the right of jury trial in courts of limited jurisdiction. If either party could remove the matter to the district court prior to the hearing and this is not done prior to the hearing, he questioned what appeal rights would be available after the hearing.

Ms. Wang stated they would be entitled to an appeal to district court after the hearing if it is not appealed ahead of time. The appeal rights from a court of limited jurisdiction to district court in an order of protection are extremely broad.

{Tape : 1; Side : B; Approx. Time Counter : 10.44}

Closing by Sponsor:

SEN. GRIMES summarized that SB 259 continues to fund domestic violent shelters, SB 257 ensures that sexual gratification does not need to be present in order to charge someone with a sex crime and SB 258 addresses temporary protective orders and clarifies the necessary jurisdiction in these case. This trio of bills is extremely critical for the safety of hundreds of women across this state. Women do not need to stay in abusive situations. They are worthy of respect and every God given right that everyone else has, including their spouses. There is a safety net for them if they decide to make a life for themselves and their children.

EXECUTIVE ACTION ON SB 16

CHAIRMAN GROSFIELD reported that **SEN. GRIMES** will serve as Chairman of the Y2K Subcommittee. **SEN. HALLIGAN** and **SEN. HOLDEN** will also serve on the Subcommittee. He encouraged other Committee members to attend the meetings.

{Tape : 1; Side : B; Approx. Time Counter : 10.47}

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 4, 1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 319, SB 320, 2/1/1999
Executive Action: SB 186, SB 258

HEARING ON SB 319

Sponsor: **SEN. RIC HOLDEN, SD 1, Glendive**

Proponents: **Roger McGlenn, Independent Insurance Agents of Montana**
Mark Baker, National Association of Independent Insurers, and AIA
Jon Metropolous, Farmers Insurance Group
Greg Van Horssen, State Farm Insurance

An owner's only act of negligence may have been not to repair the brakes of the vehicle and that failure resulted in the inability to stop in a collision. The act is not bad driving but bad maintenance of the vehicle that results in the injuries.

SEN. HALLIGAN questioned why an opportunity for a second conviction was allowed. **Mr. Habein** explained that it is possible to inadvertently misplace the insurance bill and venture out onto the streets with a canceled policy. It seems prudent to have the result of inadvertence be taken into account before a penalty is imposed.

SEN. HALLIGAN believed that this language should be in Title 27 which addressed limitations on damages in general rather than a criminal penalty statute. **Mr. Habein** state that it is important that violation of the act is a penalty because it is under the legislature's power to prescribe penalties for violations of law.

SEN. DOHERTY remarked that it was his understanding that the belief is that this passes constitutional muster for preventing full legal redress because it is in the penalty section of the law. **Mr. Habein** responded that that is one of the grounds on which he would argue that it does pass constitutional muster.

SEN. DOHERTY asked if he was aware of any other section of criminal law in which a civil right is limited. Normally the criminal codes speak to prescribing conduct and include fines, penalties, and jail time and there is a certain specificity involved. Throwing in a block of civil rights that may be proclaimed at a later date is a novel way of using the criminal code. He asked if this was done in any other circumstances. **Mr. Habein** stated that he did not know of any other such circumstances.

Closing by Sponsor:

SEN. HOLDEN remarked that this legislation has the potential to decrease the amount of lawsuits and litigation that takes place in this state. The California Insurance Commissioner was behind this proposal because it was consumer oriented legislation. They are experiencing rate reductions. He added that the California Supreme Court upheld this legislation.

{Tape : 2; Side : A; Approx. Time Counter : 10.53}

EXECUTIVE ACTION ON SB 258

Motion: **SEN. HALLIGAN** moved to **AMEND SB 258 - SB025801.avl, EXHIBIT(3).**

Discussion:

SEN. HALLIGAN clarified that the amendments add language with respect to a parenting plan on page 2, line 22. There are times when the parents are not married and file a petition for custody or parenting.

Ms. Lane added that **Ms. Wang** wanted the original language of the bill put back in on page 1, line 17. This is included in the amendments.

SEN. GRIMES stated his support of the amendments.

Vote: Motion **carried unanimously -9-0.**

Motion: **SEN. GRIMES** moved that **SB 258 DO PASS AS AMENDED.**

Discussion:

SEN. MCNUTT asked for more clarification on the amendments. **Ms. Lane** explained that it was her understanding that **Ms. Wang** wanted the language to state "the court issues" instead of "when the respondent is served".

Vote: Motion **carried unanimously -9-0.**

EXECUTIVE ACTION ON SB 237

Discussion:

SEN. MCNUTT believed that the only way to make the situation equitable would be to declare that the court reporters were independent contractors. However, they are not interested in being independent contractors. He questioned whether the best thing to do might be to table the bill.

CHAIRMAN GROSFIELD remarked that there were some amendments and that **SEN. WATERMAN** is working on a solution.

SEN. BARTLETT remarked that with the fiscal note on the bill, it will end up in the Finance and Claims Committee. She questioned whether the bill would go through the standing committee, second reading, and then be referred to the Finance and Claims Committee.

CHAIRMAN GROSFIELD affirmed that this would be the procedure.

SEN. BARTLETT remarked that when she asked the court reporters their attitude toward being independent contractors, she

SB 236 SPONSOR: Doherty, Steve SHORT TITLE: Revise criminal syndicalism law
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 17 - 3
FINAL DISPOSITION 04/20/1999 Chapter Number Assigned

SB 243 SPONSOR: Thomas, Fred SHORT TITLE: Revise extended jurisdiction prosecution act; youth sentencing provisions
REFERRED ON: 02/16/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/10/1999 Bill Concurred as Amended -- VOTE: 13 - 7
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned

SB 250 SPONSOR: Bartlett, Sue SHORT TITLE: Repeal extended jurisdiction prosecution act
BY REQUEST OF: (S) Judiciary Standing Committee
REFERRED ON: 02/16/1999 HEARD ON: 03/09/1999
TABLED ON: 03/10/1999
FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee

SB 251 SPONSOR: Halligan, Mike SHORT TITLE: Clarify assessment of chemical dependency prior to sentencing of DUI
REFERRED ON: 02/20/1999 HEARD ON: 03/22/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred as Amended -- VOTE: 19 - 1
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 257 SPONSOR: Grimes, Duane SHORT TITLE: Revise sex offender laws
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 20 - 0
FINAL DISPOSITION 04/12/1999 Chapter Number Assigned

SB 258 SPONSOR: Grimes, Duane SHORT TITLE: Revise domestic abuse laws
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

SB 271 SPONSOR: Taylor, Mike SHORT TITLE: Employer immunity for disclosures about former or current employees
REFERRED ON: 03/02/1999
FINAL DISPOSITION 05/07/1999 Chapter Number Assigned

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on March 12, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 273, SB 257, SB 258, SB 236, 3/4/1999